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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,643	01/29/2004	Arthur F. Doty III	29878-4	5402
44443	7590	09/26/2007		
NEXSEN PRUET, LLC PO DRAWER 2426 COLUMBIA, SC 29202-2426			EXAMINER DABNEY, PHYLESHA LARVINIA	
			ART UNIT 2614	PAPER NUMBER
			NOTIFICATION DATE 09/26/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

shutto@nexsenpruet.com  
ccollins@nexsenpruet.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/767,643	<b>Applicant(s)</b> DOTY ET AL.	
	<b>Examiner</b> Phylesha L. Dabney	<b>Art Unit</b> 2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 24-27 is/are allowed.
- 6) ☐ Claim(s) 1, 5, 8, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) 2-4, 6-19, and 22-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/18/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to the Application filed on 29 January 2004 in which claims 1-27 are pending.

#### ***Claim Objections***

Claim 1 and 24 are objected to because of the following informalities: the terms "when in use" referring to the phone body is inappropriately placed in the claims. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stitt (U.S. Patent No. 6,510,311), in view of Vanmoor (U.S. Patent No. 5,778,062).

Regarding claims 1, 5, and 20-21, Stitt teaches a phone case (100) for a phone body (2) having when in use a face with a microphone (20) near one end of the phone body and a speaker (22) near another end of the phone body, said case comprising a pocket having a bottom wall (28), at least one side wall (12, 24).

Stitt fails to teach specifics of the case relative to the opposing side view (figs. 3-4) for providing privacy with an additional sidewall at a mouth end wall.

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Vanmoor teaches the specifics of a case relative to a front view for ascertaining the addition of an opposing sidewall (1) and a mouth end wall (1) being used to provide privacy. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an opposing sidewall and mouth end wall in the invention of Stitt as taught by Vanmoor to provide privacy surrounding the microphone.

In addition, the combination of Stitt and Vanmoor teaches the side and end walls extend away from said bottom wall to form a pocket opening with a rim extending around the mouth such that the mouth is hidden from view and words spoken in a normal voice by a user of the phone body are received by the microphone while being muffled and blocked beyond the case sufficiently to be substantially unintelligible to persons in the vicinity of the user (Stitt, figs. 3-4).

Furthermore, the combination of Stitt and Vanmoor does not teach said sidewalls extend along corresponding sides of the phone body beyond the speaker end. However, the Examiner takes official notice that it is known to provide a sidewalls (Stitt; cradle piece) which extends beyond the speaker end of the phone body to better secure the case to the phone body. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the sidewalls beyond the speaker in the combination of Stitt and Vanmoor for the reason stated above.

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***Allowable Subject Matter***

Claims 2-4, 6-19, and 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-27 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**Any response to this action should be mailed to:**  
Commissioner of Patents and Trademarks  
P O Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**  
(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

**Hand-delivered responses should be brought to:**  
Customer Service Window  
Randolph Building  
401 Dulany Street  
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 15, 2007

  
PLD

  
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